

First Charter Bank
P. O. Box 37937
Charlotte, NC 28237-7937

August 5, 2004

Board of Governors of the Federal Reserve System
Ms. Jennifer J. Johnson, Secretary
20th Street and Constitution Avenue
Washington, D.C. 20551

RE: Overdraft Protection Guidance
Docket Number OP-1198

Dear Ms. Johnson,

Thank you for the opportunity to comment on the proposed interagency guidance on Overdraft Protection programs. First Charter is a \$4 Billion bank headquartered in Charlotte, North Carolina and we currently have over 120,000 checking accounts.

First Charter has had an automated overdraft payment program for several years. One of the primary reasons for automating this process was to remove most of the pay-return decisions from our branches in order to pay more items for the benefit of our customers and to reduce the branch workload. Any financial institution that process checks or debits makes pay/return decisions every day and some institutions have automated this process up to certain limits. In fact, it is likely that all but the smallest of financial institutions have automated the overdraft payment process to some degree.

One of our concerns with the proposed guidance is that we believe there is a significant difference between an automated overdraft program and a "marketed" overdraft program. We hope the Agencies take this difference into consideration when formulating the final guidelines. For example, do the best practices apply to any financial institution with an automated program or to only those who are deemed to be marketing the service? If the latter is the case, it is critical that a very clear definition of "marketing" be developed. Simply disclosing the service to a customer should not be considered marketing, especially if the terms and fees are highlighted.

We are also concerned that the guidance appears to treat these programs as lines of credit. Automating the pay/return process does not make an overdraft limit a line of credit. As stated earlier, automation creates efficiencies in our operational process.

We would also like to comment on the following:

I. Recommendation to charge-off overdrafts at 30 days:

First Charter has a collection process designed to minimize losses while still focusing on customer retention. This process is designed to make systematic contact with the impacted customers and determine which customers wish to cure their negative balance and which are deserving of being charged off. This process has been used for quite some time and we believe that it efficiently manages our risk. Accordingly, we would advocate that overdrafts be allowed up to an aging of sixty (60) days prior to charge-off but in no event less than forty-five (45) days.

II. Limiting the number of overdrafts/fees

The proposed guidelines recommend limiting the number of overdrafts or the dollar amount of fees that will be charged against any one account each day. However, this seems to show partiality to customers whose overdrafts are paid, since there is no such restriction to the number of transactions we can return each day.

III. Explain Check Clearing Policies

The guidance recommends disclosing to consumers the order in which transactions are processed. First Charter has literally hundreds of different transaction types within our system and it is likely that other financial institutions have comparable numbers. We also frequently add new transaction codes, changing our posting sequence. It would be very difficult and cumbersome to disclose this sequence to customers and to re-disclose every time a change is made.

First Charter has also submitted comments on the proposed changes to Regulation DD in a separate letter. Thank you again for the opportunity to comment on these proposals.

Sincerely,

Robert E. James, Jr.
President and Chief Executive Officer

Joy E. Goble
Senior Vice President, Product Management

Jim Mathews
Senior Vice President, Operations Manager and Bank Security Officer